

AMENDMENTS TO LB 667

Introduced by Agriculture.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. The Legislature finds the duty of adjoining
4 landowners for the construction and maintenance of division fences
5 to be beneficial to the public interest and welfare. Such benefits
6 are not confined to historical and traditional societal benefits
7 that accrue from the proper constraint of livestock, but also
8 include suppression of civil disputes and public and private
9 nuisances and the protection of public safety. Division fences
10 promote the peace and security of society by the demarcation of
11 rural boundaries, physical separation of conflicting land uses,
12 enhancement of privacy, diminishment of frequency of public burden
13 imposed by incidences of trespass and adverse possession, and the
14 mitigation of impacts of conflicting land use intrusion into those
15 areas of the state devoted to agricultural and horticultural use.

16 Sec. 2. Section 34-102, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 34-102 (1) When there are two or more adjoining
19 landowners, each of them shall construct and maintain a just
20 proportion of the division fence between them. Just proportion
21 means an equitable allocation of the portion of the fenceline to
22 be physically constructed and maintained by each landowner or, in
23 lieu thereof, an equitable contribution to the costs to construct

1 and maintain the division fence to be made by either landowner.
2 Unless otherwise specified in statute or by agreement of the
3 parties, such equitable allocation shall be one which results in
4 an equal burden of construction and maintenance of the division
5 fence. ~~7~~ except that if the adjoining landowners each cause or
6 allow the use of the division fence to confine livestock upon their
7 respective properties, each landowner shall construct and maintain
8 the division fence between them in equal shares. This section
9 shall not be construed to compel the erection and maintenance of a
10 division fence if neither of the adjoining landowners desires such
11 division fence.

12 (2) Unless the adjoining landowners have agreed
13 otherwise, such fence shall be a ~~lawful~~ wire fence, as defined in
14 subsection (5) of section 34-115.

15 ~~(3)~~ The duty assigned to adjoining landowners by this
16 section applies ~~(a)~~ when either or both of the adjoining lands lie
17 within an area zoned for agricultural or horticultural purposes as
18 defined in section ~~77-1359~~ and either or both of the adjoining
19 lands are utilized as agricultural or horticultural land and ~~(b)~~ in
20 all other areas of the state when both of the adjoining lands are
21 utilized as agricultural or horticultural land.

22 Sec. 3. Original section 34-102, Reissue Revised Statutes
23 of Nebraska, is repealed.